

MHN

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

PSN ILLINOIS, LLC,  
an Illinois corporation,

Plaintiff,

vs.

Abcam, Inc.; Abgent, Inc.;  
Affinity Bioreagents, Inc.;  
Discoverx Corporation;  
Exalpha Biologicals, Inc.;  
Exalpha, Inc.;  
LifeSpan Biosciences, Inc.; and  
Novus Biologicals, Inc.

Defendants.

Case No. 07 C 7190

Judge Hibbler

Magistrate Judge Valdez

07cv7190

CONSENT JUDGMENT ORDER AS TO  
DEFENDANT EXALPHA BIOLOGICALS, INC.

This action has come before the Court upon the pleadings and proceedings of record, and it has been represented to the Court that the parties, plaintiff PSN Illinois, LLC ("PSN") and defendant Exalpha Biologicals, Inc. ("Exalpha"), collectively "the Parties," have agreed to a compromise and settlement of this action and have entered into a Confidential Settlement And License Agreement dated April 11, 2008 ("the Settlement Agreement") wherein Exalpha has agreed to the entry of this judgment, including to withdraw its answer and defenses in this matter;

WHEREFORE, with the consent of the Parties, through their undersigned attorneys, and with the approval of this Court, it is hereby finally ORDERED, ADJUDGED AND DECREED as follows:

1. The Court has jurisdiction over the parties and the subject matter

One

of this action.

2. PSN owns and has standing to sue for infringement of United States Patent No. 5,856,443, entitled "Molecular Cloning And Expression of G-Protein Coupled Receptors," issued on Jan. 5, 1999, and United States Patent No. 6,518,414B1, entitled "Molecular Cloning And Expression of G-Protein Coupled Receptors," issued on Feb. 11, 2003 ("PSN's Patents").

3. To the extent of Exalpha's current knowledge and belief, each of the claims of PSN's Patents are valid and enforceable.


4. To the extent of Exalpha's current knowledge and belief, PSN's Patents have been infringed by Exalpha through Exalpha's use, sale and/or offer for sale of products and services utilizing Sphingosine 1-Phosphate Receptor 2/ aka Edg 5/ aka <sup>H211</sup> ("S1P2") that fall within the scope of claims of PSN's Patents, including at least the following Exalpha products:

- i. Polyclonal antibody (Catalog # X1591P)
- ii. Polyclonal antibody (Catalog # X10911P)
- iii. Membrane preparation of the S1P2 protein (Catalog # X1572MP)
- iv. Control Lyate for the S1P2 protein (Catalog # X1486C)

(the "infringing products").

5. No payment for or release of the infringing products which may have been used by any third parties is provided here or in the parties' Settlement Agreement, and PSN is free to pursue its damages claim in this action against such third parties.

6. Exalpha agrees to and hereby waives and relinquishes the right to ever contest the validity or enforceability of either of PSN Patents and any of their claims in



their present form, whether such assertion of invalidity or unenforceability would be made in a court proceeding or Patent Office proceeding, and whether or not such assertion is made with respect to the infringing products in this action or with respect to any other products that may be made, used, sold and/or offered for sale by Exalpha in the future.

7. All claims and defenses of each of the Parties are hereby dismissed with prejudice.

8. The parties shall each bear their own costs and attorney fees incurred in this action, and the Court shall retain jurisdiction to enforce the terms of this Consent Judgment Order and the corresponding Settlement Agreement between the parties concerning this action.

Dated: 11 April 2008

Wm. J. Hibbler 4/25/08  
Honorable William J. Hibbler  
United States District Court Judge

John Castracane  
John Castracane  
President  
Exalpha Biologicals, Inc.

Michael F. Mazza  
Michael F. Mazza  
Michael F. Mazza, LLC  
686 Crescent Blvd.  
Glen Ellyn, IL 60137  
Tel: 630-858-5071  
Fax: 630-282-7123

Attorneys for PSN  
ILLINOIS, LLC